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HON'BLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION No.14916 of 2005

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Dated:31.07.2007

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Between:

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P.Hanumath Prasad.

...Petitioner

and

The District Collector, Guntur District and others.

...Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION No.14916 of 2005

ORDER:

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The petitioner challenges the proceedings of the Mandal Revenue Officer-second respondent herein; in Rc.No.900/2003-D, dated 05.05.2005, whereby and whereunder, the second respondent ordered to evict as many as 25 persons from the land admeasuring 200 square yards to one acre comprised in survey Nos.606/1, 609/1, 609/2, 610/2, 610/3, 605/2, 607/1, 608/2, 599/1 and 615/1 situated at Adavi Thakkellapadu Hamlet of Pedapalakaluru Village, Guntur District. Alleging that there is a grave threat of dispossession, he also sought interim orders. This Court while admitting the Writ Petition on 12.07.2005, passed interim order in W.P.M.P.18957 of 2005, ordering *status quo*. Respondents 1 and 2 moved W.V.M.P.No.2436 of 2005 for vacating the interim order, *inter alia*, on the ground that the petitioner was not ordered to be evicted by the proceedings of the second respondent in Rc.No.900/2003-D, dated 05.05.2005, impugned in the Writ Petition. In view of this, the matter is heard finally.

The petitioner herein is allegedly in Low Income Group. He purchased plot No.25 in survey No.605/2 admeasuring 203 square yards in Adavi Takkellapadu Village, under a registered sale deed, dated 08.02.1996, from Koneti Yemelamma and two others. The petitioner also alleges that the vendors inherited the property from their ancestors and that they converted huge extent of land into layout with roads and other facilities and sold away to number of persons. The second respondent initiated action under the provisions of the Andhra

Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'), on an allegation that the land in survey No.605/2 is assigned land, which was transferred in favour of the vendors of the petitioner. The petitioner denied the same. Be that as it is, after following necessary procedure, the second respondent issued the impugned order, dated 05.05.2005. Though the petitioner is not one of the persons ordered to be evicted by the impugned order, he filed instant Writ Petition alleging that under the guise of the said order, the second respondent is trying to dispossess him highhandedly without even issuing any notice.

A counter-affidavit is filed by the second respondent. It is alleged that the land admeasuring Acs.4.90 in survey No.605/2 was assigned to Koneti Peda Samuel. As per the conditions of assignment, the land is inalienable. However, an illegal layout was prepared and plots were sold in contravention of Section 3(2) of the Act. The land is vacant and none of the purchasers constructed any house on the land. It is further averred that in response to a letter from the Sub-Registrar, Nallapadu, the Mandal Revenue Officer sent a communication, dated 25.09.1998, to suspend the execution of registrations in respect of land comprised in survey Nos.585 to 618 of Pedapalakaluru Village, as it is assigned land. After coming to know about the transfers effected by the assignees, action was initiated under the provisions of the Act and the notice was issued to number of persons including the petitioner. Insofar as the petitioner is concerned, an order was passed in Rc.No.900/2003-D, dated 10.05.2005, ordering his eviction. The impugned order, dated 05.05.2005, does not pertain to the case of the petitioner, and therefore, the Writ Petition itself is misconceived.

Learned counsel for the petitioner strenuously submits that the copy of the order, dated 10.05.2005, is not served on the petitioner, but taking advantage of the proceedings, dated 05.05.2005, the petitioner was sought to be evicted, and therefore, he filed the Writ Petition under a wrong impression that he is being affected, pursuant to the impugned order. He also submits that even before passing the order on 10.05.2005, the petitioner was not given any notice and no enquiry was conducted. It is also his contention that the land purchased by the petitioner in survey No.605/2 is not an assigned land and as held by a Division Bench of this Court in **P.Mangamma v. Workmen's Co-operative Housing Society Limited**^[1], when once a layout is approved in respect of the land, the same cannot be considered as the assigned land. **Opposing** the Writ Petition, learned Assistant Government Pleader for Revenue (Assignment) submits that the Writ

Petition is filed challenging the order, in respect of which, the petitioner has no grievance, and therefore, the Writ Petition is liable to be dismissed. He also refutes other contentions.

Learned Assistant Government Pleader has placed before this Court a copy of the proceedings in Rc.No.900/2003-D, dated 10.05.2005. It is the case of respondents 1 and 2 that the petitioner was ordered to be evicted under the said proceedings and the proceedings, dated 05.05.2005, is in respect of other persons. This itself is sufficient for this Court to hold that the Writ Petition is filed without any regard to the actual facts or actual impugned order. Such a Writ Petition must be treated as vexatious and frivolous. When the order, dated 05.05.2005, does not contain any direction for eviction of the petitioner, unnecessarily Writ Petition is filed making all false allegations, which are denied in the counter-affidavit. The petitioner has filed a reply-affidavit *inter alia* alleging that the plot of the petitioner is referred to in both the orders. This contention is misconceived. The name of the petitioner, Hanumanth Prasad, is found mentioned in the proceedings, dated 10.05.2005, and not in the proceedings, dated 05.05.2005. A copy of the proceedings, dated 10.05.2005, is handed over to the learned counsel for the petitioner and liberty is given to the petitioner to prefer an appeal against the same before the Revenue Divisional Officer.

Insofar as this Writ Petition is concerned, it is vexatious and frivolous, and therefore, the same is dismissed with exemplary costs fixed at Rs.5,000/- (Rupees Five Thousand only).

(V.V.S.RAO, J)

31.07.2007
GJ

[\[1\]](#) 1995 (3) ALT 330 (D.B.)